

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

RICHARD KLEIN,

Petitioner,

Case No. C-1-01-794

v.

Judge Beckwith

HAROLD CARTER, WARDEN,

Magistrate Judge Black

Respondent.

**MEMORANDUM OPPOSING PETITIONER'S MOTION FOR JUDGMENT ON
THE PLEADINGS**

Respondent has received a copy of Petitioner's motion for judgment on the pleadings pursuant to Civ.R.12(c). The Rule clearly states that "after the pleadings are closed," any party may move for judgment on the pleadings. Since Respondent has not yet filed a return of writ to Petitioner's amended petition, the pleadings are not closed. Therefore, Petitioner's motion should be denied.

Respectfully submitted,

Jim Petro
Ohio Attorney General

S/Diane Mallory
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed by regular, first-class mail to Richard Klein, #350-022, Ross Correctional Institution, P. O. Box 7010, Chillicothe, Ohio 45601, on the 15th day of November, 2004.

S/Diane Mallory